DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 6, 7, 16, 21, 23-25, 27-31, 33-37 and 39-44 rejected under 35 U.S.C. 103(a) as being unpatentable over Minato (1-172894) and Balthazor (3083499). Minato discloses a suspension for a running toy (page 1 paragraph 2) having first and second turning members (23,24), which turn first and second wheels (27,28) about first and second vertical shafts (23b, 24b) movably received by a chassis or frame member (20, 29) of the toy (Fig. 3). A member (34) connects the first and second turning members and forms a turning device (page 9 paragraph 2). A leaf spring (36) located on top of the chassis has side portions that contact upper portions of the first and second shafts as they project from the top of the chassis (Fig. 2) and subjects them to a downward biasing force caused by elastically deforming the leaf spring (page 11 second paragraph). The suspension system is for a remote control toy car (page 1 paragraph 2). The leaf spring further comprises a projecting portion or shaft (37) formed at a middle portion thereof (Fig. 3) in order to attach the leaf spring within a cleft in the frame (Fig. 2). The cleft is formed by the hollow or unfilled space between protuberances or loops on a flat portion of the frame (Fig. 3). The shaft and leaf spring are formed as a unitary member (Fig. 3). The suspension system allows either wheel to move in a

vertical direction while being biased by the biasing member or leaf spring (Fig. 4b). Minato discloses the basic inventive concept, substantially as claimed, with the exception of the recess portion being formed in the flat portion of the chassis. Balthazor discloses that it is well known in the toy art to hold a spring member in place by means of a recess (46) formed within a flat portion of a chassis (Figs. 2-5). Since both references teach configurations for retaining a biasing member or leaf spring, it would have been obvious to one skilled in the art to substitute one method for the other to achieve the predictable result of holding a spring member in place. Furthermore, the examiner notes that it is extremely well known to hold elements within recesses for the known purpose of positioning and supporting an element.

3. Claims 8, 26, 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato, Balthazor and Perryman (GB 1095490). Minato discloses the basic inventive concept substantially as claimed with the exception of the leaf spring being made of metal or plastic. Perryman discloses a leaf spring used in the suspension system of a toy car made of plastic or steel (page 2 lines 122-129). It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Perryman to use metal or plastic in a leaf spring since it is elastically deformable and usable as a biasing member. Furthermore, the mere selection of known materials such as metal and plastic on the basis of suitability for the intended use would be entirely obvious. See *in re Leshin*, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one of ordinary skill in the art to provide

Minato with metal or plastic in order to use known materials suitable for the intended use.

4. Claims 45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato, Balthazor and Booher (4893832). The references disclose the basic inventive concept as described above, with the exception of the leaf spring being configured to have one side of the leaf spring bend in response to one wheel being moved up and allowing both side portions to bend if both wheels are moved up. Booher discloses a suspension for a vehicle having a leaf spring configured to allow either one side or both sides to bend in response to movement of the wheels (Fig. 7). It would have been obvious to one of ordinary skill in the art from the teaching of Booher to configure the leaf spring in this way in order to vary the characteristics of the suspension system as desired (column 4 lines 56-60). Furthermore, since Booher discloses a leaf spring configuration usable in a suspension system for a vehicle that would be an art-recognized equivalent to the leaf spring as disclosed by the references, one of ordinary skill in the art would have found it obvious to substitute one for the other.

Response to Arguments

5. Applicant's arguments filed 6/12/08 have been fully considered but they are not persuasive. In regard to Applicant's argument that Minato teaches away from any structure formed in the support member, the examiner notes that while Minato does show a configuration of the leaf spring received above the flat surface of the support member the reference does not specifically criticize, discredit or discourage alternate solutions.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH
/Gene Kim/
Supervisory Patent Examiner, Art Unit 3711